

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5, Penal Code (PC) Section 5058, and the rulemaking authority granted by PC Section 5058.3, in order to implement, interpret and make specific PC Sections 2601 and 5054, proposes to adopt and amend Sections 3190 and 3191 of the California Code of Regulations (CCR), Title 15 concerning inmate personal property.

PUBLIC HEARING:

Date and Time: October 17, 2007 – 9:00 am to 11:00 am
Place: Corrections Standards Authority
Large Conference Room – West Entrance
660 Bercut Drive
Sacramento, CA 95814
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close, October 17, 2007 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 341-7366; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 341-7390**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**Ann Cunningham
Regulation and Policy Management Branch
Telephone (916) 341-7390**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Anthony Freese, Facility Captain
Division of Adult Operations
Telephone: (916) 322-1843**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT:

- Cost to any local agency or school district that is required to be reimbursed: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any

modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

In this regulatory action, the Secretary proposes to amend its regulatory provisions pertaining to inmate personal property which are set forth in CCR, Title 15, Sections 3190 and 3191 as follows:

- This action amends provisions governing inmate personal property based upon institution mission and security levels. It also incorporates by reference the Approved Personal Property Schedule (APPS) Matrix with revision date of February 1, 2007. The specific items of personal property have been established by a consensus of individual facilities within each of the five mission-based regions of the Division of Adult Institutions. The timely update of the five mission-based regional property lists is critical to maintaining the safety and security of facilities throughout the State. Frequent updates are necessary in order to accurately reflect the safety and security needs of the facilities of the Department in a timely manner. Updates are limited to twice yearly as a result of staff workload issues. Any changes to the APPS shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act. Local exceptions to the individual mission-based property lists shall also continue to be permitted due in part to the wide range in variances of facility construction and needs of specific local inmate populations.
- These regulations allow for a standardized personal property schedule. Based upon the Department's reorganized management structure, the Department will now have the ability to identify inmate personal property needs based upon institution mission, which is directly related to the institution's security level.
- The Department weighed institutional concerns against the concerns of inmates in order to determine reasonable personal property standards. Reasons requiring the personal property standards include, but are not limited to: (1) increases staff's ability to detect contraband, drugs, and weapons; (2) reduces the ability for inmates to barter or trade; (3) reduces inmate personal property claims; (4) provides property distinctions for the five mission-based programs; (5) reduces the ability of inmates to intimidate other inmates into relinquishing personal property; and (6) in the interest of security and safety.
- The specific items of personal property have been established by a consensus of individual facilities within each of the five mission-based regions of the Division of Adult Institutions. The APPS Matrix, which is incorporated by reference, and will consist of the following five different mission-based programs: (1) APPS – Reception Center (facilities within this mission provide short term housing to male inmates for evaluation of long term housing and programming needs); (2) APPS – Levels II and III, Male Conservation Camps and Community Correctional Facilities (CCFs) (facilities within this mission provide long term housing and services to minimum, low and lower medium custody, general population male inmates and provide for the training and placement of male inmates in the conservation camp program); (3) APPS – Levels III and IV (facilities within this mission provide long term housing and services to higher medium and maximum custody general population male inmates); (4) APPS – High Security and Transitional Housing, (facilities within this mission provide long term housing and services to maximum custody, high security male inmates that have proven to be unsuitable for placement in less restrictive facilities); and (5) APPS – Female Offenders Programs, (facilities within this mission serve as Reception Centers, providing short term housing to female inmates for initial assessment, and provide long term housing and services to all levels of custody and security for female inmates). It is the

separation of the current single matrix into these five separate matrices that allows the Department to permit a wider array of personal property items for inmates as an incentive to program in a positive manner and to address the security needs of the higher security levels.

- These regulations allow for an inmate to possess personal clothing in their quarters/living area, subject to section 3190(a), unless otherwise prohibited by these regulations. These regulations also allow for inmate special purchases from a locally-approved vendor as described in 3190(i), with the exception of books and subscriptions to periodicals which are subject to 3006; and purchases by inmate correspondents of appliances for qualifying inmates, including health care and entertainment appliances and/or musical instruments from a locally-approved vendor, pursuant to section 3044. Inmates assigned to Privilege Groups A or B may now possess up to three approved appliances (a musical instrument may be substituted as one of the three appliances), not to exceed the six cubic feet maximum limitation.
- These regulations address property retention for inmates pending the outcome of an Initial Classification Committee review. Additionally, they address the reissue of the property as determined by departmental regulations.
- The amendments to Section 3191(c) revise provisions pertaining to the disposal of unauthorized personal property, particularly with regard to the disposal of specified contraband.
- The regulations include other miscellaneous amendments, all of which relate to inmate possession of inmate personal property.